

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Susan M. Nash, :
 :
 Plaintiff, :
 :
 v. : Case No. 2:06-cv-1076
 :
 Commissioner of Social Security, : JUDGE SMITH
 :
 Defendant. :

ORDER

This matter is before the Court to consider de novo plaintiff's objections to a Report and Recommendation of the Magistrate Judge recommending that judgment be entered in favor of the defendant Commissioner. For the following reasons, those objections will be overruled and judgment will be entered for the defendant.

Here, plaintiff's objections treat the Magistrate Judge's Report and Recommendation as if it were the decision of the Commissioner. She asserts that the Magistrate Judge did not provide specific support for his credibility finding, did not articulate the reasons for concluding that plaintiff's fibromyalgia was not disabling, made an incorrect finding concerning her ability to perform daily activities, and did not specifically discuss the statements made by plaintiff in the written disability reports submitted as part of the administrative process.

The Court's role in social security cases is not to make independent findings about credibility, the disabling impact of certain impairments, or the relative weight to be assigned to medical evidence. The Commissioner is assigned that task in the

first instance and the Court cannot and does not make a *de novo* determination of those issues. Rather, "[t]his court must affirm the Commissioner's conclusions absent a determination that the Commissioner has failed to apply the correct legal standards or has made findings of fact unsupported by substantial evidence in the record." Walters v. Comm'r of Social Security, 127 F.3d 525, 528 (6th Cir. 1997).

Here, the Magistrate Judge cited to various parts of the record which contain evidence supporting the Commissioner's findings on the key issues in this case, which relate primarily to plaintiff's residual functional capacity and her ability to perform at least some sedentary jobs with a sit/stand option. The Court agrees that the Commissioner's findings have such support. Plaintiff's invitation to the Court to reverse the Magistrate Judge's Report and Recommendation because it does not meet certain standards applicable to the Commissioner's decisional process is not well-taken. In fact, had the Magistrate Judge attempted to make independent findings on these issues, that would have been grounds to vacate his decision.

For these reasons, plaintiff's objections to the Report and Recommendation of the Magistrate Judge are OVERRULED, and the Report and Recommendation is ADOPTED. The plaintiff's statement of errors is OVERRULED, the decision of the Commissioner is AFFIRMED, and the Clerk is directed to enter judgment in favor of the defendant.

/s/ George C. Smith
George C. Smith
United States District Judge